

Amendment No. 2 to HB2385

Fowlkes
Signature of Sponsor

AMEND Senate Bill No. 2979

House Bill No. 2385*

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 68, is amended by adding
Sections 2 through 7 of this act as a new part.

SECTION 2. As used in this part, the "commissioner" means the commissioner
of environment and conservation.

SECTION 3. The commissioner shall compile and maintain a list of certified
industrial hygienists and a list of persons authorized to perform clean-up of hazardous
waste sites, including but not limited to property used to manufacture methamphetamine.
Such property may include, but is not limited to, leased or rented property such as a
hotel or motel room, rented home or apartment, or any residential property. Such lists
may also be posted on the website maintained by the commissioner.

SECTION 4.

(a) The combination of substances necessary for the manufacture of
methamphetamine is declared to be a hazardous substance pursuant to section
68-131-102 (9) (A).

(b) Any property, or any structure or room in any structure on any
property wherein the manufacture of a controlled substance listed in § 39-17-
408(d)(2) is occurring or has occurred, may be quarantined by the local law
enforcement agency where such property is located. The law enforcement
agency which quarantines the property shall be responsible for posting signs
indicating that the property has been quarantined and, to the extent they can be
reasonably identified, for notifying all parties having any right, title or interest in
the quarantined property, including any lienholders.

(c)

(1) Any person who has an interest in property quarantined pursuant to this section may file a petition in the general sessions, criminal, circuit or chancery court of the county in which the property is located. Such a petition shall be for the purpose of requesting that the court order the quarantine of such property be lifted for one of the following reasons:

(A) That the property was wrongfully quarantined; or

(B) That the property has been properly cleaned, all hazardous materials removed and that it is now safe for human use but the law enforcement agency who imposed the quarantine refuses to lift it.

(2) The court shall take such proof as it deems necessary to rule upon a petition filed pursuant to this section and, after hearing such proof, may grant the petition and lift the quarantine or deny the petition and keep the quarantine in place.

SECTION 5. The commissioner is authorized to promulgate rules concerning the inspection, testing and quarantine of the property.

SECTION 6. Once the property has been quarantined, any party having a right, title or interest in the quarantined property, including any lienholders, may contact either a certified industrial hygienist from the list maintained by the commissioner to perform appropriate testing on the property to determine whether hazardous waste is present on the property, or a contractor from the list maintained by the commissioner for clean-up and removal of all hazardous waste from the property. The property must remain quarantined until a certified industrial hygienist certifies to the quarantining agency that the property is safe for human use.

SECTION 7. Any inspection, testing or quarantine conducted pursuant to this act shall be considered when calculating the appropriate restitution under § 39-17-417 (c)(2)(B).

SECTION 8. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2004, the public welfare requiring it.